

REMARKS

The Examiner is thanked for the thorough examination of this application. The FINAL Office Action, however, continued to reject all examined claims. In response, Applicant submits the foregoing amendments and the following remarks. In this regard, independent claim 1 has been amended to define the "secret file set descriptor", and claim 31 has been amended to replace the original determining step with a comparing step for passwords, and the determining step has added as a new claim 37.

The Official Action rejected claims 1-2 and 5-13 under 35 U.S.C. § 103(a) as being unpatentable over Yamada et al. (U.S. Patent 6,490,683) and further in view of Ohgake (U.S. Pub. 2001/0044887) and Geeslin (U.S. Pub. 2002/0064113). Claims 14-28 and 30 stand rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Yamada et al., Ohgake and Geeslin, and further in view of Ando et al. (U.S. Patent 6,907,187). Claims 31-36 are rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Yamada et al., Ohgake and Geeslin, and further in view of Serpa (U.S. Patent 6,954,862). Claim 29 is rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Yamada et al. (U.S. Patent 6,490,683), Ohgake, Geeslin, and Ando, and further in view of Serpa.

As amended herein, claim 1 recites:

1. A method for encoding a confidential optical disc with a burner, the method comprising the steps of:
 - receiving a signal for creating the confidential optical disc to switch a burner into a burning mode;
 - setting a data-accessing password for future verification, wherein the data-accessing password is placed to a secret file set descriptor and allocated on any unoccupied space of an optical disc, **wherein the secret file set descriptor is a**

non-standard file and stores a preset address pointing to a root directory record of a real directory tree;

selecting one of data sources for public viewing and confidential viewing data to be burned on the disc;
receiving a start burn signal to begin a data encoding process;
creating a temporary file system as a buffer that includes two stages:
creating a standard file set, and
creating a parallel file set with real data; and
burning the buffer to the optical disc to produce the confidential optical disc.

(*Emphasis added*). Claim 1 patently defines over the cited art for at least the reason that the cited art fails to disclose the features emphasized above.

As claim 1 now clearly defines, the method for encoding a confidential optical disc with a burner includes a first step of receiving signal of creating confidential optical disc to switch burner into a burning mode, and next step of setting a data-accessing password for future verification, and particularly the data-accessing password is placed to a secret file set descriptor and allocated on any unoccupied space of an optical disc, wherein the secret file set descriptor is a non-standard file and stores a preset address pointing to a root directory record of a real directory tree. Further, the next step of selecting one of data sources for public viewing and confidential viewing data to be burned on the disc, and next step of receiving a start burn signal to begin data encoding process, and step of creating a temporary file system as buffer that includes two stages, creating standard file set and creating parallel file set with real data, and the final step of burning buffer to an optical disc and producing a tangible disc.

The Office Action, however, admits that the Yamada reference fails to disclose the step of "selecting one of data sources for public viewing and confidential viewing data to be burned on the disc." The Office Action also apparently concedes that

Yamada fails to disclose the claimed limitation of: "wherein the data-accessing password is placed to a secret file set descriptor and allocated on any unoccupied space of an optical disc, and **wherein the secret file set descriptor is a non-standard file and stores a preset address pointing to a root directory record of a real directory tree.**" The Office Action, however, relies on Geeslin to teach these features. Applicant respectfully disagrees.

The Office Action specifically referenced paragraphs [0032]-[0032] and [0034]-[0035] of Geeslin. With reference to the text passages cited by the Office Action, **Geeslin** teaches that "password (PSBP) 114 [is] located in the implementation use volume descriptor 110" (see paragraph [0034]). The Office Action apparently equates the "implementation use volume descriptor" disclosed by Geeslin with the "secret file set descriptor" recited in claim 1. As will be appreciated by persons skilled in the art, however, the "implementation use volume descriptor" is a volume descriptor defined by the **DVD standard**. In this regard, Applicant submits that the two are not equivalent. In this regard, claim 1 explicitly recites a secret file set descriptor. **As expressly defined in amended claim 1, the secret file set descriptor is pointed by the address stored in the sequence (see operation 302 in FIG. 3) and can only be found by the optical disc player/reader using the method of the present application. In particular, the secret file set descriptor stores a preset address that points to a root directory record of a real directory tree in the UDF system.** The "implementation use volume descriptor" disclosed by Geeslin or the volume descriptor is clearly defined in the DVD standard, and thus, it is known to public; on the contrary, the secret file set descriptor has a unique or non-standard structure at a

unknown location allocated on any unoccupied space of an optical disc so that general optical disc player/reader cannot access the secret file set descriptor.

Furthermore, Applicant points out that the specification for the application separately discloses an "implementation use volume descriptor." (See specification, paragraph 0026, which states: "In addition, there are other descriptors in the UDF bridge file system 300 such as implementation use volume descriptor 316, primary volume descriptor 318, partition descriptor 320, logical volume descriptor 322 and unallocated space descriptor 324. These descriptors can also store information (e.g. directory tree) if there is any unused space in them.") At most, and for the sake of argument, the "implementation use volume descriptor" taught by Geeslin correlates with this element taught by Applicant. In this regard, Applicant submits that the "secret file set descriptor" recited in claim 1 above is clearly different from the implementation use volume descriptor recited in Geeslin. Furthermore, the Yamada reference and the Ohgake reference fail to teach this feature.

For at least the foregoing reasons, claim 1 patently defines over the cited art. Insofar as claims 2 and 5-30 depend from claim 1, the rejections of these claims should be withdrawn for the same reasons.

Claim 31.

With regard to independent claim 31, as amended herein, this claim recites:

31. A method for reading and decoding a confidential optical disc produced by claim 1, the method comprising the steps of:
a player reading optical disc data;
receiving a view confidential data command signal;
requesting entry of a data-accessing password;
comparing the entered password with a data-accessing

password placed in a secret file set descriptor allocated on any unoccupied space of an optical disc, wherein the secret file set descriptor is a non-standard file and stores a preset address pointing to a root directory record of a real directory tree;
if the entered password is correct, playing or reading real data,
wherein the real data of the optical disc is pointed by the preset address;
and

ending the playing/reading session.

(*Emphasis added*). Claim 31 patently defines over the cited art for at least the reason that the cited art fails to disclose the features emphasized above, that is, the cited art fails to disclose the step of **“comparing the entered password with a data-accessing password placed in a secret file set descriptor allocated on any unoccupied space of an optical disc, wherein the secret file set descriptor is a non-standard file and stores a preset address pointing to a root directory record of a real directory tree”**. In this regard, the features emphasized above are similar to the defining features of claim 1. Therefore, claim 31 defines over the cited art for the same reasons as claim 1, which have been set forth above.

In addition, the feature of “view confidential data command signal,” as defined in claim 31 is important as **the player will only show and play dummy data unless a view confidential disc command is received**. The cited art of record does not teach or disclose this feature. Insofar as claims 32-37 depend from claim 31, these claims define over the prior art as well.

As a separate and independent basis for the patentability of all claims, Applicant submits that the combination of Yamada, Ohgake, and Geeslin is improper and therefore does not render the claims obvious. In this regard, the Office Action combined Ohgake and Geeslin with Yamada to reject the claims on the solely expressed basis that “it would have been obvious ... since one would have been

motivated to (1) have a method of controlling access to the record medium ... and (2) providing a method for setting the protection states of optical discs.” (see e.g., Office Action, p. 4)

This rationale is both incomplete and improper in view of the established standards for rejections under 35 U.S.C. § 103.

In this regard, the MPEP section 2141 states:

The Supreme Court in KSR reaffirmed the familiar framework for determining obviousness as set forth in *Graham v. John Deere Co.* (383 U.S. 1, 148 USPQ 459 (1966))... As reiterated by the Supreme Court in KSR, the framework for the objective analysis for determining obviousness under 35 U.S.C. 103 is stated in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966). Obviousness is a question of law based on underlying factual inquiries. The factual inquiries enunciated by the Court are as follows:

- (A) Ascertaining the differences between the claimed invention and the prior art; and
- (B) Ascertaining the differences between the claimed invention and the prior art; and
- (C) Resolving the level of ordinary skill in the pertinent art.

In addition:

When applying 35 U.S.C. 103, the following tenets of patent law must be adhered to:

- (A) The claimed invention must be considered as a whole;
- (B) The references must be considered as a whole and must suggest the desirability and thus the obviousness of making the combination;
- (C) The references must be viewed without the benefit of impermissible hindsight vision afforded by the claimed invention and
- (D) Reasonable expectation of success is the standard with which obviousness is determined.

Hodosh v. Block Drug Co., Inc., 786 F.2d 1136, 1143 n.5, 229 USPQ 182, 187 n.5 (Fed. Cir. 1986).

As reflected above, the foregoing approach to obviousness determinations was recently confirmed by the United States Supreme Court decision in KSR

INTERNATIONAL CO. V. TELEFLEX INC. ET AL. 550 U.S. 1, 82 USPQ2d 1385, 1395-97 (2007), where the Court stated:

In *Graham v. John Deere Co. of Kansas City*, 383 U. S. 1 (1966), the Court set out a framework for applying the statutory language of §103, language itself based on the logic of the earlier decision in *Hotchkiss v. Greenwood*, 11 How. 248 (1851), and its progeny. See 383 U. S., at 15–17. The analysis is objective:

“Under §103, the scope and content of the prior art are to be determined; differences between the prior art and the claims at issue are to be ascertained; and the level of ordinary skill in the pertinent art resolved. Against this background the obviousness or nonobviousness of the subject matter is determined. Such secondary considerations as commercial success, long felt but unsolved needs, failure of others, etc., might be utilized to give light to the circumstances surrounding the origin of the subject matter sought to be patented.” *Id.*, at 17–18.

Indeed, as now expressly embodied in MPEP 2143, “[t]he **key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious**. The Supreme Court in *KSR* noted that the analysis supporting a rejection under 35 U.S.C. 103 should be made explicit.” (*Emphasis added, MPEP 2143*). “Objective evidence relevant to the issue of obviousness **must** be evaluated by Office personnel.” (MPEP 2141). “The key to supporting any rejection under 35 U.S.C. 103 is the **clear articulation of the reason(s)** why the claimed invention would have been obvious. The Supreme Court in *KSR* noted that the analysis supporting a rejection under 35 U.S.C. 103 **should be made explicit**. The Court quoting *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006), stated that ‘[R]ejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.’” (MPEP 2141).

Simply stated, the Office Action has failed to at least (1) ascertain the differences

between and prior art and the claims in issue; and (2) resolve the level of ordinary skill in the art. Furthermore, the alleged rationale for combining the references is merely an improper conclusory statement that embodies clear and improper hindsight rationale. For at least these additional reasons, Applicant submits that the rejections of all claims are improper and should be withdrawn.

CONCLUSION

Applicant respectfully submits that all pending claims are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephone conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 933-9500.

No fee is believed to be due in connection with this amendment and response to Office Action. If, however, any fee is believed to be due, you are hereby authorized to charge any such fee to deposit account No. 20-0778.

Respectfully submitted,

/Daniel R. McClure/

Daniel R. McClure
Reg. No. 38,962

THOMAS, KAYDEN, HORSTEMEYER & RISLEY, L.L.P.
600 Galleria Parkway SE
Suite 1500
Atlanta, Georgia 30339
(770) 933-9500